

**MARION BOARD OF SELECTMEN
WATER/SEWER COMMISSIONERS
MEETING MINUTES
April 1, 2014**

MEMBERS PRESENT: Jonathan Dickerson, Chairman
Stephen Cushing
Jonathan Henry

ALSO PRESENT: Paul Dawson, Town Administrator
Jon Witten
Patricia McArdle
Teresa Santos
Ora Mae Torres
Ruth Olson
Jack Beck
Janice Robbins
Richard Patten
Jeff Oakes
Ken Litke
Kirk Coykendall
Alan Minard
Chris Reagle (Sentinel)
Michael DeCicco (Standard Times)
Joan Hartnett Barry (Wanderer)
Matthew Bernat (Sippican Week)
Debra Paiva, secretary

The meeting was called to order at 7:00 p.m. in the Town House conference room. Mr. Dickerson announced that the meeting would be televised, video recorded by ORCTV, and audio recorded by Town of Marion staff. A list of the materials reviewed at the meeting will be attached to these minutes.

Approval of Meeting Minutes – March 12, 2014, March 18, 2014

Moved by Mr. Cushing and seconded by Mr. Henry to move the minutes of the March 12, 2014 and March 18, 2014 meetings. VOTE: 3-0-0

ACTION ITEMS

Water Commitment - \$3247.68, Final Readings (3/17/14)

Moved by Mr. Cushing and seconded by Mr. Henry to approve. VOTE: 3-0-0

Water Commitment - \$350, New Service (3/17/14)

Moved by Mr. Cushing and seconded by Mr. Henry to approve. VOTE: 3-0-0

Request to close street for Tabor Academy Commencement

Mr. Dawson informed the Board that Tabor Academy's commencement will be on Tuesday, May 27, at 11:00 a.m. and the school has requested to close the portion of Front Street between Ryder Lane and Cottage Street from 10:30 a.m. to 12:30 p.m. Mr. Dickerson asked that local businesses be notified of the road closure.

Moved by Mr. Henry and seconded by Mr. Cushing to approve the request. VOTE: 3-0-0

APPOINTMENT

Public Hearing – Wave Restaurant

NOTE: Mr. Henry recused himself and left the room at 7:05 p.m. prior to any discussion

Business owner Todd Zell was present for the public hearing, which opened on March 18 and continued to tonight to allow notification of a day care located within 500' of the restaurant; no testimony was given on March 18. The public hearing is for the relocation of the existing main bar. Plans showing the current and proposed conditions were reviewed. The application includes a request to change the name of the restaurant to "Brew Fish". Mr. Zell intends to have a "soft opening" for friends and family on Tuesday, May 20, close the next day, and then open officially on Thursday, May 22. The effective date of the new license will be May 20. Audience members had no questions or comments.

Moved by Mr. Dickerson and seconded by Mr. Cushing to approve the change of license and also the change of name from the Wave Restaurant to the Brew Fish, liquor license effective May 20, 2014. VOTE: 2-0-1 (Mr. Henry abstained)

NOTE: Mr. Henry rejoined the meeting at 7:12 p.m., after the vote was taken.

Request from Volunteers at Sippican Elementary (V.A.S.E.) regarding 5K fundraiser

Moved by Mr. Cushing and seconded by Mr. Henry to approve the request of the VASE for the Second Annual Schooner 5K road race to be held Sunday, May 4, 2014. VOTE: 3-0-0

Discuss Building Commissioner's request regarding proposed fee increases

At the March 18 meeting the Board voted to increase the Building Department fees as outlined on a schedule submitted by the Building Commissioner.

Mr. Dawson told the Board that he had misunderstood the plan review fee and incorrectly stated that it would be applied to the building permit fee. He explained that it actually is a fee in itself, and the increase will not be implemented until the Board has voted to approve it.

Moved by Mr. Cushing and seconded by Mr. Henry to approve the fee schedule as presented. VOTE: 3-0-0

Applications for appointment to Town House Building Committee

Facilities Manager Shaun Cormier is reviewing the applications and has requested that this be tabled until the April 15 meeting.

Nomination of Inspector of Animals – Susan Connor

Moved by Mr. Dickerson and seconded by Mr. Cushing to nominate Susan Connor Inspector of Animals for the Town of Marion. VOTE: 3-0-0

One day all alcohol license – VFW #2425 – Ham & Bean Supper and Penny Sale, 6:00 p.m. – 10:00 p.m. (4/5/14)

Moved by Mr. Cushing and seconded by Mr. Henry to approve. VOTE: 3-0-0

One day wine & malt license – Tri-County Music Association – Pops Fundraiser Concert at Tabor Academy, 1:00 p.m. – 5:00 p.m. (6/8/14)

Moved by Mr. Henry and seconded by Mr. Cushing to approve. VOTE: 3-0-0

Request for water/sewer abatement – 28 Pawkechatt Way

An application for an abatement of sewer charges was reviewed and discussed. Review of the information revealed that an outside hose connection burst while the home was unoccupied, the water consumption during that period of time is documented on a data log report, and the water was not consciously used and did not enter the municipal sewer system. The Department of Public Works recommended the granting of an abatement of the sewer charges of \$1190.64.

Moved by Mr. Cushing and seconded by Mr. Henry that based on past practices the Board approve the sewer abatement as recommended. 3-0-0

Request for water/sewer abatement – 355 Delano Road

An application for an abatement of sewer charges was reviewed and discussed. Review of the information revealed:

The home was unoccupied during the billing period.

Water Department staff notified the property owner of a high meter reading.

A neighbor checked the property and saw that the basement was flooded.

When the flooded basement was discovered the property owner contacted the Water Department and requested that the water be shut off at the street.

The flood in the basement was most likely caused by a pipe that froze and burst.

A water consumption report was not provided as the meter was in the basement and under water.

The water was not consciously used and did not enter the municipal sewer system.

The Department of Public Works recommended the granting of an abatement of the sewer charges of \$7210.91.

Moved by Mr. Cushing and seconded by Mr. Henry that the Board approve the sewer abatement in the amount of \$7210.91. 3-0-0

APPOINTMENT

Bike Path Committee – Discussion regarding PNF (Project Need Form)

Committee members Jeff Oakes, Ken Litke, and Kirk Coykendall were present for this discussion. They presented for Board approval a PNF required to be submitted to the Department of Transportation prior to requesting funds for the bike path. Mr. Dawson described it as the first step in a long process. Mr. Oakes said funding should be approved in approximately three years.

Moved by Mr. Cushing and seconded by Mr. Dickerson to authorize the Board to submit the Project Need Form and cover letter. VOTE: 2-0-1 (Mr. Henry abstained)

Mr. Oakes told the Board about a grant opportunity that would allow the Town of Marion to purchase bike racks and then be reimbursed for all costs with the exception of shipping costs. He recommended that the racks be kept at the library and Washburn Park. The reimbursement would be \$795.73.

Moved by Mr. Dickerson and seconded by Mr. Cushing to authorize the Town Administrator to submit the appropriate paperwork and also to authorize the Town Administrator to enter into a contract at such time as the town gets the appropriate funding. VOTE: 2-0-1 (Mr. Henry abstained)

NOTE: Mr. Dickerson explained that Mr. Henry abstained from participating in the two previous votes because he is the chairman of SRPEDD.

ACTION ITEMS

Equal Pay Day proclamation

The Selectmen reviewed the request to sign a proclamation declaring April 8 Equal Pay Day. Moved by Mr. Dickerson and seconded by Mr. Henry to sign the proclamation. VOTE: 3-0-0

Application for Class 1 license – A&J Boat Corp.

Board members reviewed the application for a Class 1 license to allow the sale of new boats and boat trailers at 840 Point Road. Mr. Dawson told the Board that this does not change how the business operates as they were not aware of the need to apply for a license.

Moved by Mr. Cushing and seconded by Mr. Henry to approve the request of A&J Boat Corp. for a Class 1 license. VOTE: 3-0-0

Sign Conservation Restriction – Land from Sippican Land Trust to Marion Conservation Commission

Attorney Patricia McArdle was present with the Conservation Restriction (CR) for land located off Front Street at the Baywatch 40B project. The CR will be held by the Town, reviewed and approved by Town Counsel, and signed by the Sippican Land Trust and Marion Conservation Commission. Once it has been signed by the Selectmen and recorded the CPA funds that were approved by Town Meeting will be released to the developer.

Moved by Mr. Henry and seconded by Mr. Cushing to sign the Conservation Restriction. VOTE: 3-0-0

APPOINTMENT

Marion Affordable Housing Trust – Discussion regarding Habitat for Humanity project Regulatory Agreement

Attorney Witten addressed the Board and explained his written opinion regarding one of DHCD's requirements contained in the Regulatory Agreement (RA) for the Habitat for Humanity (Habitat) dwelling proposed at 185 Wareham Street. The following actions and documents were referenced in his opinion:

- Purchase and Sale Agreement between the Town and Habitat
- 2012 Annual Town Meeting vote authorizing the sale of land to Habitat
- Board of Selectmen approval of the project as a Local Initiative Project (LIP)
- Comprehensive Permit application submitted by Habitat
- DHCD LIP approval letter
- Comprehensive Permit issued by the Marion Board of Appeals
- 2012 Special Town Meeting vote and Community Preservation Committee (CPC) recommendations

The RA contains two paragraphs which would terminate the agreement in the event that the dwelling is for sale and an eligible buyer cannot be found within 90 days. DHCD will not

remove those paragraphs and Attorney Witten said he could not recommend that the Town agree to language that is in conflict with the documents and actions listed above. He suggested that the Selectmen and Affordable Housing Trust consider revising the requirement that the unit be counted on the Town's Subsidized Housing Inventory (SHI) and then ask the Board of Appeals to modify the comprehensive permit to no longer require an RA acceptable to DHCD.

Affordable Housing Trust Chair Ora Mae Torres said the Trustees met earlier and are willing to have it removed from the SHI in order to get the project accomplished. She said the Trust wants the dwelling to be built and to remain affordable in perpetuity.

Habitat attorney Janice Robbins said Habitat wants to proceed with the project and DHCD was willing to entertain a period of time when Habitat, the Town, or the State would be allowed to buy the house and then resell it. She said the intent is to keep the dwelling affordable in perpetuity and voiced concern for the expense, delay, and risk associated with a Board of Appeals hearing.

Jack Beck said the issue is the very unlikely event that an eligible buyer cannot be found when the house is resold.

It was agreed that the attorneys would ask DHCD to recognize that CPC funds were used, that Town Meeting vote controlled, and that DHCD requirements would be secondary. The Affordable Housing Trustees and the Selectmen agreed that they were comfortable with the unit being removed from the SHI as long as it remained affordable in perpetuity. If the RA issues cannot be resolved an application will be filed with the Board of Appeals.

ACTION ITEMS

Close Annual Town Meeting warrant

Finance Committee Chairman Alan Minard was present. The FY15 budget and the draft warrants of the Annual Town Meeting and Special Town Meeting were reviewed and discussed. Moved by Mr. Henry and seconded by Mr. Cushing to move the warrant. VOTE: 3-0-0

TOWN ADMINISTRATOR REPORT

Update – Bond Rating

Mr. Dawson announced that the Town's bond rating has been upgraded from AA+ to AAA, the third upgrade since 2008; this will result in future borrowing costs being subject to a much lower borrowing rate. Mr. Dickerson noted that there are 351 towns in Massachusetts and only 30 have a AAA bond rating. He said it was a result of teamwork over the years and everybody involved should be commended.

Update – Mill Street cell tower

The Town has been notified that Nextel will be abandoning their Mill Street cell tower lease and will be leaving their equipment behind. Town Counsel has reviewed and approved the lease termination agreement. The police chief has been notified that Comcast will be charging the Town rent for use of the tower at Marconi Village; moving to the Mill Street tower and using the abandoned equipment will allow the Town to avoid costs related to rent and equipment installation.

Moved by Mr. Henry and seconded by Mr. Cushing to authorize the chairman to sign on behalf of the town the lease termination agreement. VOTE: 3-0-0

Update – Tri-Town Selectmen meeting

There will be a meeting of the Tri-Town Selectmen on Thursday, April 10, at 7:00 in the ORR media room.

CORRESPONDENCE

Reading of the correspondence was waived with the exception of the following:

#1 – Letter from Mass Dot regarding spring sweeping operations

Mr. Dawson agreed to remind Mr. Zora to have the sand swept from the sidewalk to the road for the DOT sweeper removal.

#7 – Memo from R. Zora regarding annual hydrant flushing program

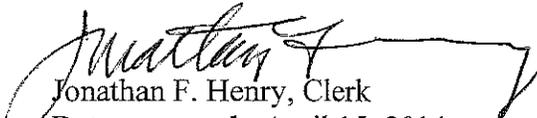
The spring flushing program will commence next Monday.

#3 – Letter from Richard Carr regarding signage

Mr. Dawson has received similar correspondence in the past and discussed it with Town Counsel. While some people have been offended by the sign it's not offensive as defined by the law.

Moved by Mr. Dickerson and seconded by Mr. Cushing at 9:07 p.m. to adjourn and enter into Executive Session for strategy related to ongoing litigation. The Board will not be returning to public session. A roll call vote was taken with all members voting aye.

Respectfully submitted,


Jonathan F. Henry, Clerk
Date approved: April 15, 2014

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2014 APR 16 A 8:58

**MARION BOARD OF SELECTMEN
WATER/SEWER COMMISSIONERS**

DOCUMENTS REVIEWED AT MEETING – April 1, 2014

Meeting minutes – March 12, 2014, March 18, 2014
Application for alteration of premises – Wave Restaurant
Project Need Form (PNF) – Marion Bike Path Committee
Memorandum from Town Counsel regarding Habitat for Humanity project (185 Wareham Street)
Regulatory Agreement
Water Commitment – \$3427.68, Final Readings (03/17/14)
Water Commitment – \$350, New Service (03/17/14)
Request to close street for Tabor Academy Commencement
Building Commissioner's request regarding proposed fee increases
Request from Volunteers at Sippican Elementary (V.A.S.E.) regarding 5K fundraiser (5/4/14)
Applications for appointment to Town House Building Committee - Priscilla Ditchfield, John Rockwell, Evelyn Crocker, Meg Steinberg, Bill Saltonstall, Norman Hills, Wayne Mattson, Karen Kevelson, Robert Raymond, John Sweeney, Richard Giberti, Nancy Mills
Nomination of Inspector of Animals – Susan Connor
One day all alcohol license – VFW #2425 – Ham & Bean Supper and Penny Sale, 6:00 p.m. – 10:00 p.m. (4/5/14)
One day wine & malt license – Tri-County Music Association - Pops Fundraiser Concert at Tabor Academy, 1:00 p.m. – 5:00 p.m. (6/8/14)
Request for water abatement – 28 Pawkechatt Way
Request for water abatement – 355 Delano Road
Annual Town Meeting warrant
Equal Pay Day proclamation
Application for Class I license – A&J Boats
Conservation Restriction – (Land from Sippican Land Trust to Marion Conservation Commission)
Bond Rating upgrade information
Memo from Chief Miller regarding Mill Street cell tower
Letter from MassDOT regarding spring sweeping operations
CDM Smith memorandum - Tabor Academy Synthetic Turf Athletic Field Evaluation (3/13/14)
Letter from Richard Carr regarding signage (3/25/14)
Memo from Council on Aging Director regarding Boston Post Cane guidelines
Email from MMA regarding Chapter 90 and Elections Legislation, Veterans' Services Bill
Email from Ted North regarding appointments to Town House Building Committee (3/28/14)
Memo from R. Zora regarding Annual Hydrant Flushing Program (4/1/14)
Meeting agenda – Conservation Commission (3/26/14)